

## Community Development Department

P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132  
503-537-1240 ▪ Fax 503-537-1272 ▪ [www.newbergoregon.gov](http://www.newbergoregon.gov)

### PRE-APPLICATION MEETING NOTES

**DATE OF PRE-APPLICATION MEETING:** 06/30/21

**REF#: PRE21-0016**

**MEETING TYPE:** Video Conference call

**SUBJECT PROPERTY ADDRESS:** 4821 E Portland Road

**TAXMAP ID:** R3216-01000 and R3216-00900

**PROPERTY SIZE:** 10.58 acres in size

**ZONING DISTRICT:** R-1 (Low Density Residential), R-2 (Medium Density Residential) & C3 (Central Business District)

**REQUESTOR'S NAME/BUSINESS:** 3J Consulting representing Westwood Homes

**REQUESTOR'S CONTACT INFORMATION:** **Phone:** 503-946-9365 x211 **Email:** [mercedes.serra@3j-consulting.com](mailto:mercedes.serra@3j-consulting.com)

**REQUEST DESCRIPTION:** Submittal requirements for a partition, conditional use permit, and planned unit development application for the subject property. The Applicant is proposing a planned unit development (PUD) and a conditional use permit (CUP) which will allow for the creation of a neighborhood which will contain a mixture of single-family dwellings, attached single-family dwellings, and multi-family dwellings. The applicant is proposing to partition the easternmost parcel to locate the existing wetland on a separate lot.

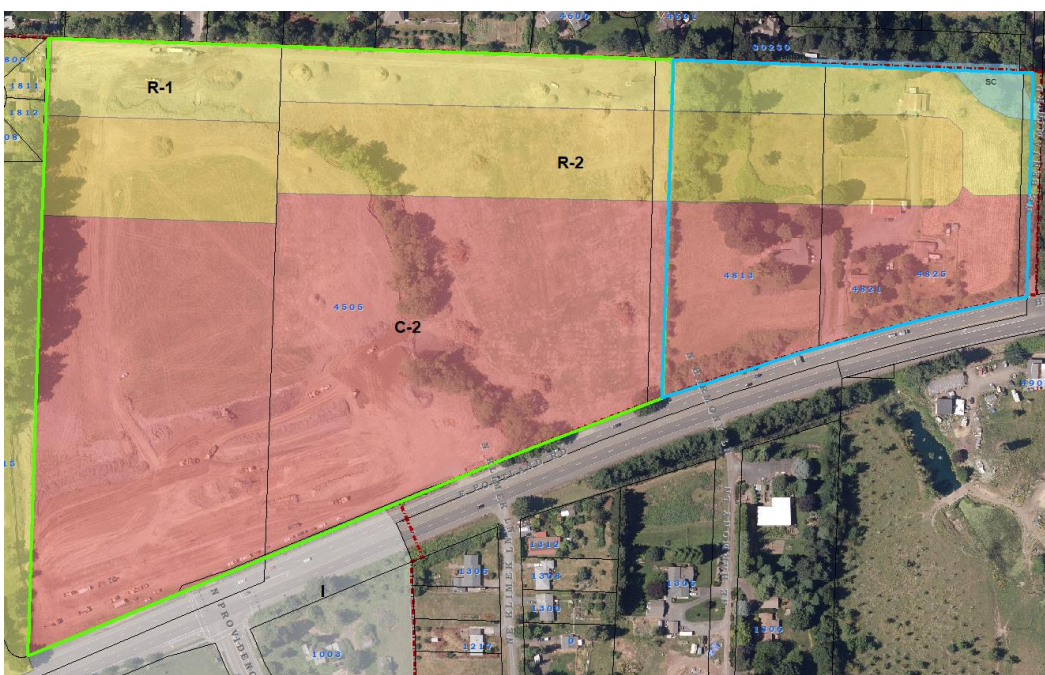
**PROPOSED USE ALLOWED:** NMC 15.305.020 Zoning use table – Use districts.  
#410 Commercial Offices (accounting offices proposed).

### PARTICIPANTS

APPLICANT	CITY STAFF
Mercedes Serra - Senior Planner - 3J Consulting, Inc.	Doug Rux (Host) –CDD
Bruce Thomas - owner	Keith Leonard – CDD
Danna Kemp - owner	Kaaren Hofmann - ENG
	Karyn Hansen - ENG
	Ty Darby TVF&R
	Jared Bradbury - BLD

### Crestview Development Area

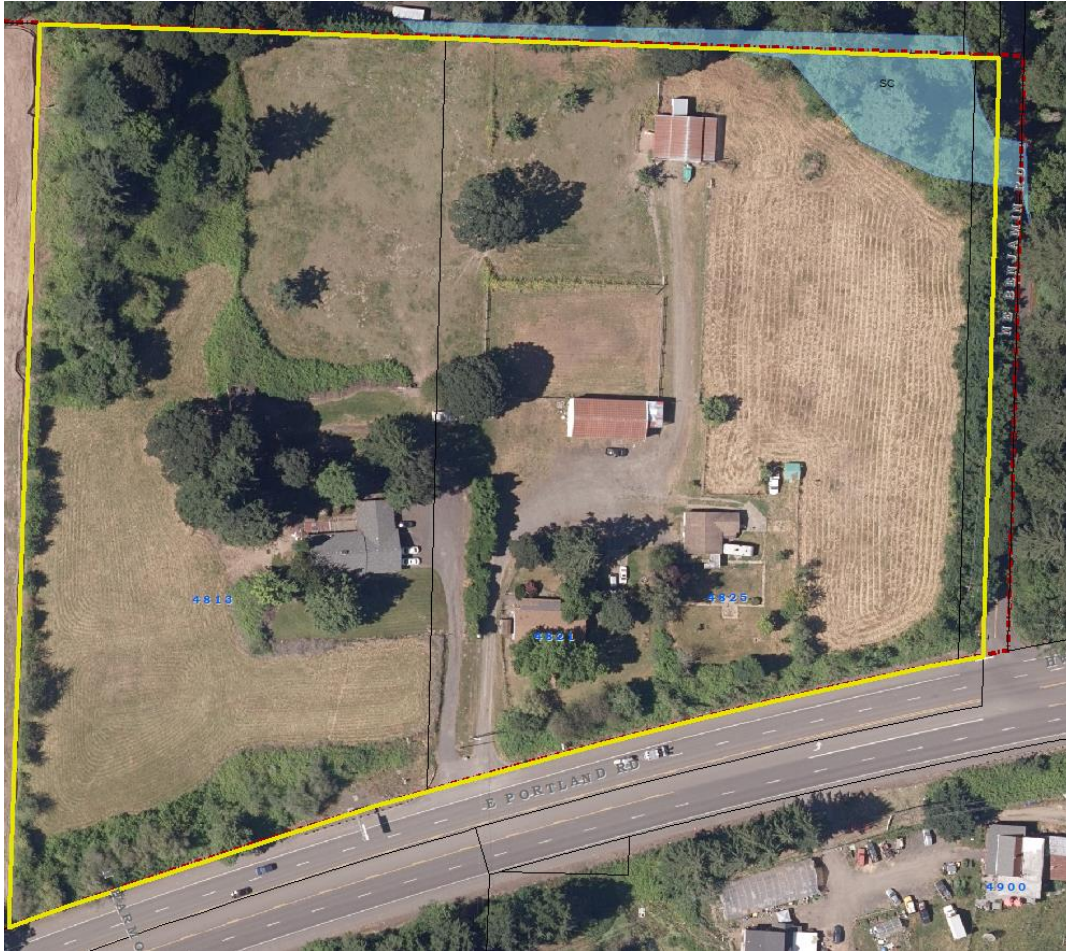
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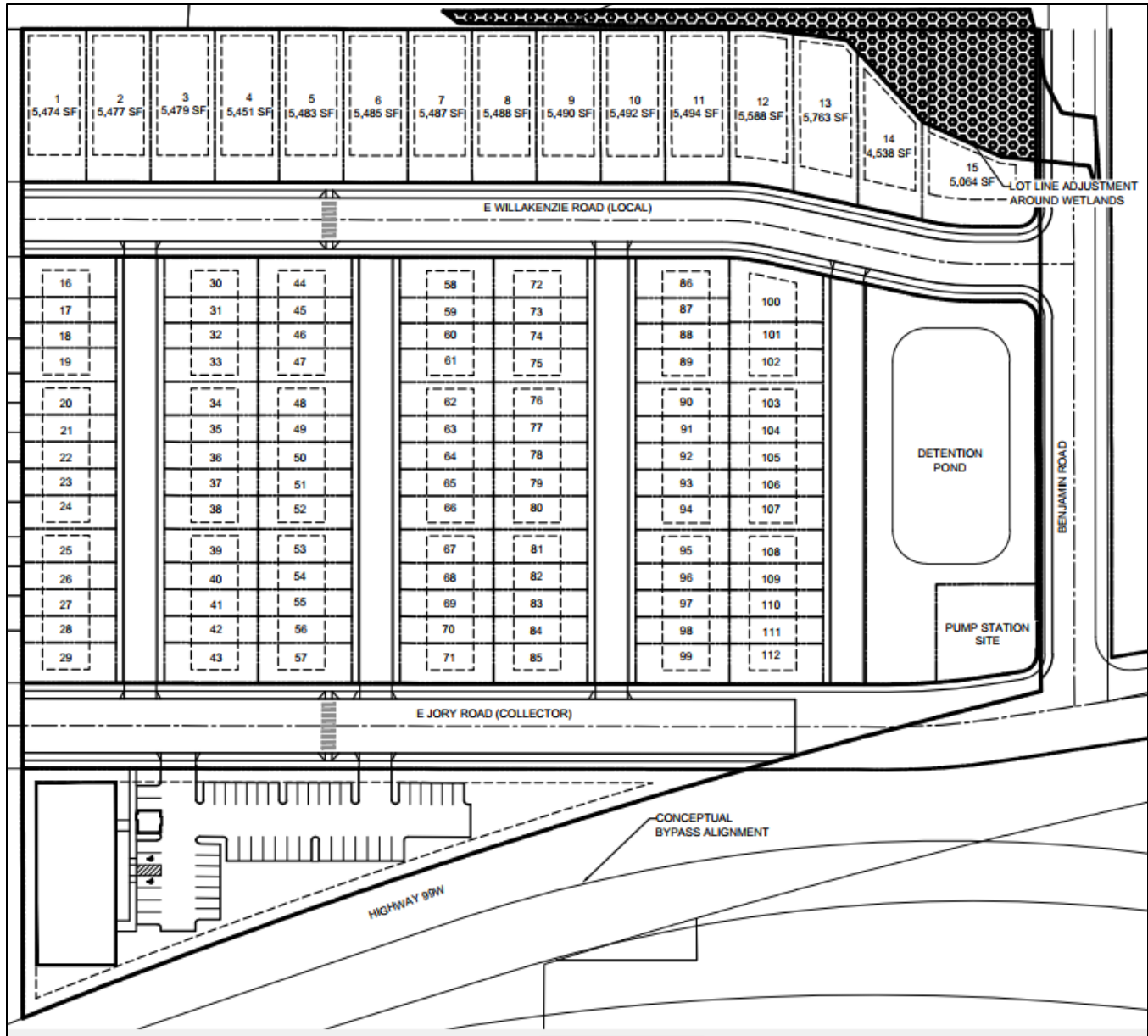


## SUBJECT SITE



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## APPLICANT'S PRELIMINARY PLANS



### TUALATIN VALLEY FIRE & RESCUE COMMENTS:

Did not attend. Check if Fire Flow test is required.

Contact: Ty Darby [Ty.Darby@tvfr.com](mailto:Ty.Darby@tvfr.com)

### BUILDING SAFETY DIVISION

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Building plans need to be prepared by a design professional properly licensed according to the type of building construction proposed.

Contact: Jared Bradbury [Jared.Bradbury@newbergoregon.gov](mailto:Jared.Bradbury@newbergoregon.gov)

## **ENGINEERING COMMENTS:**

### **Crestview Green**

**Transportation:** The proposed street plan will need to be revised to address several concerns:

- The Newberg-Dundee Bypass has an interchange planned in phase 2 that impacts the intersection of Benjamin Road and OR 99-W.
- Casey Knecht from ODOT recommended this project's street layout work under current conditions with the schedule of the Bypass interchange unknown at this time.
- The City of Newberg Transportation System Plan identifies a closure for Benjamin Road under future development conditions with a new connection constructed under the bypass interchange to connect Crestview Drive to Corral Creek Road.
- Benjamin Road is under the jurisdiction of Yamhill County. A  $\frac{3}{4}$  street improvement along the Benjamin Road frontage will be required, built to City standards.
- The site plan shows E Jory Road terminating west of the intersection of Benjamin Road and OR 99-W. This layout will need to be updated to connect E Jory Road to Benjamin Road in a different way, possibly by routing it North.
- Street Improvements meeting city standards along the OR 99-W frontage will be required.

**Wastewater:** The submitted proposed development plan shows a pump station site at the corner of Benjamin Road and OR 99W. If it is intended that this become a public pump station, service area characterization will have to be aligned with future projections for service area needs addressed in the City of Newberg Wastewater Master Plan. System development charge credits would be associated with the applicant building a public pump station consistent with Wastewater Master Plan projects. Alternatives to a public pump station could include a private pump station or fill that would bring the elevation of the site to a level that would make gravity flow possible.

The proposed wastewater system connection will be affected by capacity concerns at Fernwood Pump Station. Please refer to the Wastewater Master Plan - Addendum Riverfront 2021 (**Appendix K**) for information regarding wastewater service. Capacity issues at Fernwood Pump Station, subsequent collection system, and other relevant downstream deficiencies are described. The Wastewater Master Plan - Addendum Riverfront 2021 is available on the City's website at: [Wastewater Master Plan Update | Newberg Oregon](#)

**Water:** The online GIS for the City of Newberg shows a 10-inch water line in OR 99-W. ODOT has jurisdiction over OR 99-W. Permitting for a water line connection will need to be coordinated with both the City and ODOT.

**Reuse (non-potable) Water:** The online GIS for the City of Newberg shows a 10-inch non-potable water line in OR 99-W. ODOT has jurisdiction over OR 99-W. Permitting for a water line connection will need to be coordinated with both the City and ODOT. The applicant should consider connection to the non-potable water line for irrigation or other allowed uses.

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**Stormwater:** The online GIS for the City of Newberg shows no public stormwater collection facilities nearby the proposed development. The site plan submitted shows a detention pond adjacent to Benjamin Road. Street improvements along OR 99-W and Benjamin Road should be anticipated to include storm water collection and treatment facilities. A preliminary stormwater report will be required with an application for the proposed development.

The site plan submitted identifies a jurisdictional wetland at the north-east corner of the property. A lot line adjustment is also shown. Street improvements on Benjamin Road will likely impact the jurisdictional wetland. All necessary characterization and permitting processes associated with the wetland will need to be addressed prior to submitting for public improvement permits.

**Erosion and Sedimentation Control (ESC):** Site disturbance for site preparation will require an erosion control permit per 13.25.040. Please reference NMC Chapter 13.25 STORMWATER MANAGEMENT for a full explanation. The size of the project will require a DEQ 1200C permit. This would need to be submitted with any City permit application.

**Other Utilities:** Any new service connection to the property is required to be undergrounded. See NMC 15.430.010 for exception provisions.

**General Comment:** The engineering pre-application notes provided are preliminary based on the information provided by the applicant and may not cover all the development issues or requirements for the project. When a complete application is received and a full review is conducted, it may be determined that additional requirements to meet the Municipal Code or the Public Works Design and Construction Standards exist.

The online GIS for The City of Newberg may be accessed using the link below:

<https://www.newbergoregon.gov/engineering/page/about-newberg-gis>

The Engineering Department also administers/assigns System Development Charges (SDCs) for the following utilities:

- Transportation System Development Charge
- Water System Development Charge
- Wastewater System Development Charge
- Stormwater System Development Charge
- Non-Potable System Development Charge

Please refer to:

<https://www.newbergoregon.gov/engineering/page/systems-development-charges>

Contact: Kristen Svcarovich [Kristen.Svcarovich@newbergoregon.gov](mailto:Kristen.Svcarovich@newbergoregon.gov)

## **PLANNING COMMENTS:**

**Zoning and allowed uses:** The site is in the C-2, R-2 and R-1 zones.

### **Corps of Engineers/Department of State Lands:**

Discussions with the Corps and DSL continue on the wetland mitigation program. The stream channel is proposed to be retained across the site.

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**Process:**

**Application type:** Type III Preliminary PUD and a CUP for housing in the C-2 zone.

**Timing:** Typically 4-6 weeks after the application is deemed complete for a Planning Commission hearing. Two week appeal period following Planning Commission decision. If appealed then it would go to the City Council.

**Public notice requirements:** Mailed notice to properties within 500 feet, sign posted on frontage.

**Fees:**

**PLANNED UNIT DEVELOPMENT**

Planning Fees - \$3,872+\$80 PER LOT OR UNIT + 5% technology fee

$(\$3,872 + (\$80 \times 113)) = 12,912$  plus 5% technology fee of 645.60 = \$13,557.60

Engineering Fees - \$296.71 +(13.90/lot x 113) = \$1,867.41 + 93.37 (technology fee) = \$1,960.78

Total = \$15,518.38

**CONDITIONAL USE PERMIT:**

**Planning Fees** - \$1,939 plus 5% technology fee - **\$1,939 + \$96.95 technology fee = \$2,035.95**

**15.100.030 Type II procedure.**

A. Type II development actions shall be decided by the director.

B. Type II actions include, but are not limited to:

1. Site design review.

C. The applicant shall provide notice pursuant to the requirements of NMC 15.100.200 et seq.

D. The director shall make a decision based on the information presented and shall issue a development permit if the applicant has complied with all of the relevant requirements of this code. The director may add conditions to the permit to ensure compliance with all requirements of this code.

E. Appeals may be made by an affected party, Type II, in accordance with NMC 15.100.160 et seq. All Type II development action appeals shall be heard and decided by the planning commission.

F. If the director's decision is appealed as provided in subsection (E) of this section, the hearing shall be conducted pursuant to the Type III quasi-judicial hearing procedures as identified in NMC 15.100.050.

G. The decision of the planning commission on any appeal may be further appealed to the city council by an affected party, Type III, in accordance with NMC 15.100.160 et seq. and shall be a review of the record supplemented by written or oral arguments relevant to the record presented by the parties.

H. An applicant shall have the option to request at the time the development permit application is submitted that the proposal be reviewed under the Type III procedure.

**REQUIREMENTS**

**Chapter 15.225 - CONDITIONAL USE PROCEDURES**

**15.225.010 Description and purpose.**

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A. It is recognized that certain types of uses require special consideration prior to their being permitted in a particular district. The reasons for requiring such special consideration involves, among other things, the size of the area required for the full development of such uses, the nature of the traffic problems incidental to operation of the use, the effect such uses have on any adjoining land uses and on the growth and development of the community as a whole.

B. All uses permitted conditionally are declared to be possessing such unique and special characteristics as to make impractical their being included as outright uses in any of the various districts herein defined. The authority for the location and operation of the uses shall be subject to review and the issuance of a conditional use permit. The purpose of review shall be to determine that the characteristics of any such use shall be reasonably compatible with the type of uses permitted in surrounding areas, and for the further purpose of stipulating such conditions as may be reasonable so that the basic purposes of this code shall be served. Nothing construed herein shall be deemed to require the hearing body to grant a conditional use permit. [Ord. 2536, 11-16-00; Ord. 2451, 12-2-96. Code 2001 § 151.205.]

#### **15.225.020 Conditional use permit prerequisite to building.**

No building permit shall be issued when a conditional use permit is required by the terms of this code unless a permit has been granted by the hearing body and then only in accordance with the terms and conditions of the conditional use permit. Conditional use permits may be temporary or permanent for any use or purpose for which such permits are required or permitted by provisions of this code. [Ord. 2451, 12-2-96. Code 2001 § 151.206.]

#### **15.225.030 Application.**

Application for a conditional use permit shall be accompanied by such information including, but not limited to, site and building plans, drawings and elevations, and operational data, as may be required by the director to allow proper evaluation of the proposal. The plan submittal requirements identified in NMC 15.220.030 and 15.445.190 shall be used as a guide. All proposals for conditional use permit shall be accompanied by a detailed project description which includes information such as the use, information relating to utilities, the number of employees, the hours of operation, traffic information, odor impacts, and other information needed to adequately describe the project. [Ord. 2536, 11-6-00; Ord. 2451, 12-2-96. Code 2001 § 151.207.]

#### **15.225.040 Concurrent design review.**

If new buildings or structures are to be included as part of the application, the planning commission shall concurrently review the application for site design review in order to streamline the review process. [Ord. 2451, 12-2-96. Code 2001 § 151.208.]

#### **15.225.050 Additional information.**

In order to fully evaluate the proposal, additional information may be required. This includes but is not limited to traffic studies, noise studies, visual analysis, and other site impact studies as determined by the director or planning commission. [Ord. 2451, 12-2-96. Code 2001 § 151.209.]

#### **15.225.060 General conditional use permit criteria – Type III.**

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A conditional use permit may be granted through a Type III procedure only if the proposal conforms to all the following criteria:

A. The location, size, design and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the development.

B. The location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.

C. The proposed development will be consistent with this code. [Ord. 2451, 12-2-96. Code 2001 § 151.210.]

#### **15.225.070 Conditional uses permitted in any zoning district.**

*Repealed by Ord. 2763.* [Ord. 2619, 5-16-05; Ord. 2507, 3-1-99; Ord. 2451, 12-2-96. Code 2001 § 151.211.]

#### **15.225.080 Conditions.**

The hearing body shall designate conditions in connection with the conditional use permit deemed necessary to secure the purpose of this chapter and the general conditional use permit criteria and require the guarantees and evidence that such conditions will be complied with. Such conditions may include:

- A. Regulation of uses.
- B. Special yards, spaces.
- C. Fences and walls.
- D. Surfacing of parking areas to city specifications.
- E. Street dedications and improvements (or bonds).
- F. Regulation of points of vehicular ingress and egress.
- G. Regulation of signs.
- H. Landscaping and maintenance of landscaping.
- I. Maintenance of the grounds.
- J. Regulation of noise, vibration, odors or other similar nuisances.
- K. Regulation of time for certain activities.

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L. Time period within which the proposed use shall be developed.

M. Duration of use.

N. Such other conditions as will make possible the development of the city in an orderly and efficient manner in conformity with the Newberg comprehensive plan and the Newberg development code. [Ord. 2451, 12-2-96. Code 2001 § 151.212.]

#### **15.225.090 Development in accord with plans.**

Construction, site development, and landscaping shall be carried out in substantial accord with the plans, drawings, conditions, sketches, and other documents approved as part of a final decision on a conditional use permit. [Ord. 2451, 12-2-96. Code 2001 § 151.213.]

#### **15.225.100 Conditional use permit must be exercised to be effective.**

A. A conditional use permit granted under this code shall be effective only when the exercise of the right granted thereunder shall be commenced within one year from the effective date of the decision.

The director under a Type I procedure may grant an extension for up to six months if the applicant files a request in writing prior to the expiration of the approval and demonstrates compliance with the following:

1. The land use designation of the property has not been changed since the initial use permit approval; and
2. The applicable standards in this code which applied to the project have not changed.

B. In case such right is not exercised, or extension obtained, the conditional use permit decision shall be void. Any conditional use permit granted pursuant to this code is transferable to subsequent owners or contract purchasers of the property unless otherwise provided at the time of granting such permit. [Ord. 2451, 12-2-96. Code 2001 § 151.214.]

#### **15.225.110 Preexisting uses now listed as a conditional use.**

Where a use is legally established and continuing, but that use currently would require a conditional use permit, the use shall be considered as having a conditional use permit under the terms of the prior permit approval. Any nonconforming site development shall be subject to the provisions of Chapter 15.205 NMC.

### **Chapter 15.240 PD PLANNED UNIT DEVELOPMENT REGULATIONS**

#### **15.240.020 General provisions.**

A. Ownership. Except as provided herein, the area included in a proposed planned unit development must be in single ownership or under the development control of a joint application of owners or option holders of the property involved.

B. Processing Steps – Type III. Prior to issuance of a building permit, planned unit development applications must be approved through a Type III procedure and using the following steps:

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1. Step One – Preliminary Plans. Consideration of applications in terms of on-site and off-site factors to assure the flexibility afforded by planned unit development regulations is used to preserve natural amenities; create an attractive, safe, efficient, and stable environment; and assure reasonable compatibility with the surrounding area. Preliminary review necessarily involves consideration of the off-site impact of the proposed design, including building height and location.

2. Step Two – Final Plans. Consideration of detailed plans to assure substantial conformance with preliminary plans as approved or conditionally approved. Final plans need not include detailed construction drawings as subsequently required for a building permit.

C. Phasing. If approved at the time of preliminary plan consideration, final plan applications may be submitted in phases. If preliminary plans encompassing only a portion of a site under single ownership are submitted, they must be accompanied by a statement and be sufficiently detailed to prove that the entire area can be developed and used in accordance with city standards, policies, plans and ordinances.

D. Lapse of Approval. If the applicant fails to submit material required for consideration at the next step in accordance with the schedule approved at the previous step or, in the absence of a specified schedule, within one year of such approval, the application as approved at the previous step expires. If the applicant fails to obtain a building permit for construction in accordance with the schedule as previously approved, or in the absence of a specified schedule, within three years of a preliminary plan approval, preliminary and final plan approvals expire. Prior to expiration of plan approval at any step, the hearing authority responsible for approval may, if requested, extend or modify the schedule, providing it is not detrimental to the public interest or contrary to the findings and provisions specified herein for planned unit developments. Unless the preliminary plan hearing authority provides to the contrary, expiration of final plan approval of any phase automatically renders all phases void that are not yet finally approved or upon which construction has not begun.

E. Resubmittal Following Expiration. Upon expiration of preliminary or final plan approval, a new application and fee must be submitted prior to reconsideration. Reconsideration shall be subject to the same procedures as an original application.

F. Density. Except as provided in NMC 15.302.040 relating to subdistricts, dwelling unit density provisions for residential planned unit developments shall be as follows:

1. Maximum Density.

a. Except as provided in adopted refinement plans, the maximum allowable density for any project shall be as follows:

District	Density Points
R-1	175 density points per gross acre, as calculated in subsection (F)(1)(b) of this section
R-2	310 density points per gross acre, as calculated in subsection (F)(1)(b) of this section

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District	Density Points
R-3	640 density points per gross acre, as calculated in subsection (F)(1)(b) of this section
RP	310 density points per gross acre, as calculated in subsection (F)(1)(b) of this section
C-1	As per required findings
C-2	As per required findings
C-3	As per required findings

b. Density point calculations in the following table are correlated to dwellings based on the number of bedrooms, which for these purposes is defined as an enclosed room which is commonly used or capable of conversion to use as sleeping quarters. Accordingly, family rooms, dens, libraries, studies, studios, and other similar rooms shall be considered bedrooms if they meet the above definitions, are separated by walls or doors from other areas of the dwelling and are accessible to a bathroom without passing through another bedroom. Density points may be reduced at the applicant's discretion by 25 percent for deed-restricted affordable dwelling units as follows:

**Density Point Table**

Dwelling Type	Density Points:	Density Points: Income-Restricted Affordable Dwelling Unit
	Standard Dwelling	
Studio and efficiency	12	9
One-bedroom	14	11
Two-bedroom	21	16
Three-bedroom	28	21
Four or more bedrooms	35	26

The density points in the right-hand column are applicable to income-restricted affordable dwelling units, provided the dwelling units meet the affordability criteria under NMC 15.242.030 regarding affordable housing requirements for developments using the flexible development standards.

2. Approved Density. The number of dwelling units allowable shall be determined by the hearing authority in accordance with the standards set forth in these regulations. The hearing authority may change density subsequent to preliminary plan approval only if the reduction is necessary to comply with required findings for preliminary plan approval or if conditions of preliminary plan approval cannot otherwise be satisfied.

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3. Easement Calculations. Density calculations may include areas in easements if the applicant clearly demonstrates that such areas will benefit residents of the proposed planned unit development.

4. Dedications. Density calculations may include areas dedicated to the public for recreation or open space.

5. Cumulative Density. When approved in phases, cumulative density shall not exceed the overall density per acre established at the time of preliminary plan approval.

G. Buildings and Uses Permitted. Buildings and uses in planned unit developments are permitted as follows:

1. R-1, R-2, R-3 and RP Zones.

a. Buildings and uses permitted outright or conditionally in the use district in which the proposed planned unit development is located.

b. Accessory buildings and uses.

c. Duplexes.

d. Dwellings, single, manufactured, and multifamily.

e. Convenience commercial services which the applicant proves will be patronized mainly by the residents of the proposed planned unit development.

2. C-1, C-2 and C-3 Zones.

a. When proposed as a combination residential-commercial planned unit development, uses and buildings as listed in subsection (G)(1) of this section and those listed as permitted outright or conditionally in the use district wherein the development will be located.

b. When proposed as a residential or commercial planned unit development, uses and buildings as permitted outright or conditionally in the use district wherein the development will be located.

3. M-1, M-2 and M-3 Zones. Uses and buildings as permitted outright or conditionally in the use district wherein the development will be located.

4. M-4 Zone. Uses and buildings as permitted outright or conditionally in the use district wherein the development will be located. Proposed sites, structures and uses must work together to support a common theme, product or industry. Applicants for an industrial planned development in M-4 must demonstrate conformance with any adopted master plan for the subject area and provide a plan describing how the proposed structures and uses will work together to support a common theme, product or industry. Prior to subdivision, covenants must limit occupancy to the types of industrial and related uses identified in the development plan.

H. Professional Coordinator and Design Team. Professional coordinators and design teams shall comply with the following:

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1. Services. A professional coordinator, licensed in the State of Oregon to practice architecture, landscape architecture or engineering, shall ensure that the required plans are prepared. Plans and services provided for the city and between the applicant and the coordinator shall include:

- a. Preliminary design;
- b. Design development;
- c. Construction documents, except for single-family detached dwellings and duplexes in subdivisions; and
- d. Administration of the construction contract, including, but not limited to, inspection and verification of compliance with approved plans.

2. Address and Attendance. The coordinator or the coordinator's professional representative shall maintain an Oregon address, unless this requirement is waived by the director. The coordinator or other member of the design team shall attend all public meetings at which the proposed planned unit development is discussed.

3. Design Team Designation. Except as provided herein, a design team, which includes an architect, a landscape architect, engineer, and land surveyor, shall be designated by the professional coordinator to prepare appropriate plans. Each team member must be licensed to practice the team member's profession in the State of Oregon.

4. Design Team Participation and Waiver. Unless waived by the director upon proof by the coordinator that the scope of the proposal does not require the services of all members at one or more steps, the full design team shall participate in the preparation of plans at all three steps.

5. Design Team Change. Written notice of any change in design team personnel must be submitted to the director within three working days of the change.

6. Plan Certification. Certification of the services of the professionals responsible for particular drawings shall appear on drawings submitted for consideration and shall be signed and stamped with the registration seal issued by the State of Oregon for each professional so involved. To assure comprehensive review by the design team of all plans for compliance with these regulations, the dated cover sheet shall contain a statement of review endorsed with the signatures of all designated members of the design team.

I. Modification of Certain Regulations. Except as otherwise stated in these regulations, fence and wall provisions, general provisions pertaining to height, yards, area, lot width, frontage, depth and coverage, number of off-street parking spaces required, and regulations pertaining to setbacks specified in this code may be modified by the hearing authority, provided the proposed development will be in accordance with the purposes of this code and those regulations. Departures from the hearing authority upon a finding by the engineering director that the departures will not create hazardous conditions for vehicular or pedestrian traffic. Nothing contained in this subsection shall be interpreted as providing flexibility to regulations other than those specifically encompassed in this code.

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J. Lot Coverage. Maximum permitted lot and parking area coverage as provided in this code shall not be exceeded unless specifically permitted by the hearing authority in accordance with these regulations.

K. Height. Unless determined by the hearing authority that intrusion of structures into the sun exposure plane will not adversely affect the occupants or potential occupants of adjacent properties, all buildings and structures shall be constructed within the area contained between lines illustrating the sun exposure plane (see Appendix A, Figure 8 and the definition of “**sun exposure plane**” in NMC 15.05.030). The hearing authority may further modify heights to:

1. Protect lines of sight and scenic vistas from greater encroachment than would occur as a result of conventional development.
2. Protect lines of sight and scenic vistas.
3. Enable the project to satisfy required findings for approval.

L. Dedication, Improvement and Maintenance of Public Thoroughfares. Public thoroughfares shall be dedicated, improved and maintained as follows:

1. Streets and Walkways. Including, but not limited to, those necessary for proper development of adjacent properties. Construction standards that minimize maintenance and protect the public health and safety, and setbacks as specified in NMC 15.410.050, pertaining to special setback requirements to planned rights-of-way, shall be required.
2. Notwithstanding subsection (L)(1) of this section, a private street may be approved if the following standards are satisfied.
  - a. An application for approval of a PUD with at least 50 dwelling units may include a private street and the request for a private street shall be supported by the evidence required by this section. The planning commission may approve a private street if it finds the applicant has demonstrated that the purpose statements in NMC 15.240.010(A) through (D) are satisfied by the evidence in subsections (L)(2)(a)(i) through (v) of this section.
    - i. A plan for managing on-street parking, maintenance and financing of maintenance of the private street, including a draft reserve study showing that the future homeowners association can financially maintain the private street;
    - ii. A plan demonstrating that on- and off-street parking shall be sufficient for the expected parking needs and applicable codes;
    - iii. Proposed conditions, covenants and restrictions that include a requirement that the homeowners association shall be established in perpetuity and shall continually employ a community management association whose duties shall include assisting the homeowners association with the private street parking management and maintenance, including the enforcement of parking restrictions;

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iv. Evidence that the private street is of sufficient width and construction to satisfy requirements of the fire marshal and city engineer; and

v. The PUD shall be a Class I planned community as defined in ORS Chapter 94.

b. If the PUD is established, the homeowners association shall provide an annual written report on the anniversary date of the final approval of the PUD approval to the community development director that includes the following:

i. The most recent reserve study.

ii. The name and contact information for the retained community management association.

iii. A report on the condition of the private street and any plans for maintenance of the private street.

3. Easements. As are necessary for the orderly extension of public utilities and bicycle and pedestrian access.

M. Underground Utilities. Unless waived by the hearing authority, the developer shall locate all on-site utilities serving the proposed planned unit development underground in accordance with the policies, practices and rules of the serving utilities and the Public Utilities Commission.

N. Usable Outdoor Living Area. All dwelling units shall be served by outdoor living areas as defined in this code. Unless waived by the hearing authority, the outdoor living area must equal at least 10 percent of the gross floor area of each unit. So long as outdoor living area is available to each dwelling unit, other outdoor living space may be offered for dedication to the city, in fee or easement, to be incorporated in a city-approved recreational facility. A portion or all of a dedicated area may be included in calculating density if permitted under these regulations.

O. Site Modification. Unless otherwise provided in preliminary plan approval, vegetation, topography and other natural features of parcels proposed for development shall remain substantially unaltered pending final plan approval.

P. Completion of Required Landscaping. If required landscaping cannot be completed prior to occupancy, or as otherwise required by a condition of approval, the director may require the applicant to post a performance bond of a sufficient amount and time to assure timely completion.

Q. Design Standards. The proposed development shall meet the design requirements for multifamily residential projects identified in NMC 15.220.060. A minimum of 40 percent of the required points shall be obtained in each of the design categories.

#### **15.240.030 Preliminary plan consideration – Step one.**

A. Preapplication Conference. Prior to filing an application for preliminary plan consideration, the applicant or coordinator may request through the director a preapplication conference to discuss the feasibility of the proposed planned unit development and determine the processing requirements.

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B. Application. An application, with the required fee, for preliminary plan approval shall be made by the owner of the affected property, or the owner's authorized agent, on a form prescribed by and submitted to the director. Applications, accompanied by such additional copies as requested by the director for purposes of referral, shall contain or have attached sufficient information as prescribed by the director to allow processing and review in accordance with these regulations. As part of the application, the property owner requesting the planned development shall file a waiver stating that the owner will not file any demand against the city under Ballot Measure 49, approved November 6, 2007, that amended ORS Chapters 195 and 197 based on the city's decision on the planned development.

C. Type III Review and Decision Criteria. Preliminary plan consideration shall be reviewed through the Type III procedure. Decisions shall include review and recognition of the potential impact of the entire development, and preliminary approval shall include written affirmative findings that:

1. The proposed development is consistent with standards, plans, policies and ordinances adopted by the city; and
2. The proposed development's general design and character, including but not limited to anticipated building locations, bulk and height, location and distribution of recreation space, parking, roads, access and other uses, will be reasonably compatible with appropriate development of abutting properties and the surrounding neighborhood; and
3. Public services and facilities are available to serve the proposed development. If such public services and facilities are not at present available, an affirmative finding may be made under this criterion if the evidence indicates that the public services and facilities will be available prior to need by reason of:
  - a. Public facility planning by the appropriate agencies; or
  - b. A commitment by the applicant to provide private services and facilities adequate to accommodate the projected demands of the project; or
  - c. Commitment by the applicant to provide for offsetting all added public costs or early commitment of public funds made necessary by the development; and
4. The provisions and conditions of this code have been met; and
5. Proposed buildings, roads, and other uses are designed and sited to ensure preservation of features, and other unique or worthwhile natural features and to prevent soil erosion or flood hazard; and
6. There will be adequate on-site provisions for utility services, emergency vehicular access, and, where appropriate, public transportation facilities; and
7. Sufficient usable recreation facilities, outdoor living area, open space, and parking areas will be conveniently and safely accessible for use by residents of the proposed development; and
8. Proposed buildings, structures, and uses will be arranged, designed, and constructed so as to take into consideration the surrounding area in terms of access, building scale, bulk, design, setbacks, heights, coverage, landscaping and screening, and to assure reasonable privacy for residents of the development and surrounding properties.

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D. Conditions. Applications may be approved subject to conditions necessary to fulfill the purpose and provisions of these regulations.

#### **15.240.040 Final plan consideration – Step two.**

A. Application. An application, with the required fee, for final plan approval shall be submitted in accordance with the provisions of this code, and must be in compliance with all conditions imposed and schedules previously prescribed.

B. Referral. Referral of final plans and supportive material shall be provided to appropriate agencies and departments.

C. Decision Type I Procedure. The final plan consideration shall be reviewed through the Type I procedure. Upon receipt of the application and fee, final plans and required supportive material, the director shall approve, conditionally approve or deny the application for final plan approval. The decision of the director to approve or deny the application shall be based on written findings of compliance or noncompliance with approved preliminary plans and city standards, plans, policies and ordinances. Minor variations from approved preliminary plans may be permitted if consistent with the general character of the approved preliminary plans.

D. Conditions. Applications may be approved subject to such conditions as are necessary to fulfill the purpose and provisions of this code.

E. Performance Agreement.

1. Preparation and Signatures. A duly notarized performance agreement binding the applicant, and the applicant's successors in interest, assuring construction and performance in accordance with the approved final plans shall be prepared by the city and executed by the applicant and city prior to issuance of a building permit.
2. Return. Unless an executed copy of the agreement is returned to the director within 60 days of its delivery to the applicant, final plan approval shall expire, necessitating the reapplication for final plan reapproval.
3. Filing. The director shall file a memorandum of the performance agreement with the Yamhill County recorder.
4. Improvement Petitions and Dedications. Improvement petitions and all documents required with respect to dedications and easements shall be submitted prior to completion of the agreement.
5. Project Changes. The director may permit project changes subsequent to execution of the agreement upon finding the changes substantially conform to final approved plans and comply with city standards, plans, policies and ordinances. Other modifications are subject to reapplication at the appropriate step.
6. Compliance. Compliance with this section is a prerequisite to the issuance of a building permit.

#### **15.240.050 Enforcement.**

Upon the applicant's violation of or failure to comply with any of the provisions of the performance contract or final approved plan, the city may, in its discretion, invoke the enforcement procedures provided in the agreement or under applicable law.

### **OFFSTREET PARKING AND LOADING**

#### **15.440.010 Required off-street parking.**

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B. Off-street parking is required pursuant to NMC 15.440.030 in the C-2 district.

1. In cases where the applicant is proposing off-street parking, refer to subsection (F) of this section for the maximum number of parking spaces.

F. Maximum Number of Off-Street Automobile Parking Spaces. The maximum number of off-street automobile parking spaces allowed per site equals the minimum number of required spaces, pursuant to NMC 15.440.030, multiplied by a factor of:

1. One and one-fifth spaces for uses fronting a street with adjacent on-street parking spaces; or
2. One and one-half spaces for uses fronting no street with adjacent on-street parking; or
3. A factor determined according to a parking analysis.

- **15.440.020 Parking area and service drive design.**
- **15.440.030: Off-Street Parking, Bicycle Parking, and Private Walkways**

## **LANDSCAPING**

### **15.420: Landscaping and Outdoor Areas**

15.420.010 Required minimum standards.

B. Required Landscaped Area.

C. Installation of Landscaping.

15.420.020 Landscaping and amenities in public rights-of-way.

## **LIGHTING**

### **15.425 Exterior Lighting Requirements**

#### **15.425.020 Applicability and exemptions**

A. Applicability. Outdoor lighting shall be required for safety and personal security in areas of assembly, parking, and traverse, as part of multifamily residential, commercial, industrial, public, recreational and institutional uses. The applicant for any Type I or Type II development permit shall submit, as part of the site plan, evidence that the proposed outdoor lighting plan will comply with this section. This information shall contain but not be limited to the following:

1. The location, height, make, model, lamp type, wattage, and proposed cutoff angle of each outdoor lighting fixture.
2. Additional information the director may determine is necessary, including but not limited to illuminance level profiles, hours of business operation, and percentage of site dedicated to parking and access.
3. If any portion of the site is used after dark for outdoor parking, assembly or traverse, an illumination plan for these areas is required. The plan must address safety and personal security.

#### **15.425.040 Requirements.**

A. General Requirements – All Zoning Districts.

1. Low-level light fixtures [...]
2. Medium-level light fixtures [...]
3. High-level light fixtures [...]

B. Table of Shielding Requirements.

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### **15.220.050 Criteria for design review (Type II process).**

- A. Type I. The following criteria are required to be met in order to approve a Type I design review request:
1. Parking. Parking areas shall meet the requirements of NMC 15.440.010.
  2. Setbacks and General Requirements. The proposal shall comply with NMC 15.415.010 through 15.415.060 dealing with height restrictions and public access; and NMC 15.405.010 through 15.405.040 and 15.410.010 through 15.410.070 dealing with setbacks, coverage, vision clearance, and yard requirements.
  3. Landscaping Requirements. The proposal shall comply with NMC 15.420.010 dealing with landscape requirements and landscape screening.
  4. Signs. Signs shall comply with NMC 15.435.010 et seq. dealing with signs.
  5. Zoning District Compliance. The proposed use shall be listed as a permitted or conditionally permitted use in the zoning district in which it is located as found in NMC 15.305.010 through 15.336.020.
- B. Type II. The following criteria are required to be met in order to approve a Type II design review request:
1. Design Compatibility. The proposed design review request incorporates an architectural design which is compatible with and/or superior to existing or proposed uses and structures in the surrounding area. This shall include, but not be limited to, building architecture, materials, colors, roof design, landscape design, and signage.
  2. Parking and On-Site Circulation. Parking areas shall meet the requirements of NMC 15.440.010. Parking studies may be required to determine if adequate parking and circulation are provided for uses not specifically identified in NMC 15.440.010. Provisions shall be made to provide efficient and adequate on-site circulation without using the public streets as part of the parking lot circulation pattern. Parking areas shall be designed so that vehicles can efficiently enter and exit the public streets with a minimum impact on the functioning of the public street.
  3. Setbacks and General Requirements. The proposal shall comply with NMC 15.415.010 through 15.415.060 dealing with height restrictions and public access; and NMC 15.405.010 through 15.405.040 and 15.410.010 through 15.410.070 dealing with setbacks, coverage, vision clearance, and yard requirements.
  4. Landscaping Requirements. The proposal shall comply with NMC 15.420.010 dealing with landscape requirements and landscape screening.
  5. Signs. Signs shall comply with NMC 15.435.010 et seq. dealing with signs.
  6. Manufactured Dwelling, Mobile Home and RV Parks. Manufactured dwelling and mobile home parks shall also comply with the standards listed in NMC 15.445.075 through 15.445.100 in addition to the other clear and objective criteria listed in this section. RV parks also shall comply with NMC 15.445.170 in addition to the other criteria listed in this section.
  7. Zoning District Compliance. The proposed use shall be listed as a permitted or conditionally permitted use in the zoning district in which it is located as found in NMC 15.305.010 through 15.336.020. Through this site review process, the director may make a determination that a use is determined to be similar to those listed in the applicable zoning district, if it is not already specifically listed. In this case, the director shall make a finding that the use shall not have any different or more detrimental effects upon the adjoining neighborhood area than those specifically listed.
  8. Subdistrict Compliance. Properties located within subdistricts shall comply with the provisions of those subdistricts located in NMC 15.340.010 through 15.348.060.
  9. Alternative Circulation, Roadway Frontage Improvements and Utility Improvements. Where applicable, new developments shall provide for access for vehicles and pedestrians to adjacent properties which are currently developed or will be developed in the future. This may be accomplished through the provision of local public streets or private access and utility easements. At the time of development of a parcel, provisions shall be made to develop the adjacent street frontage in accordance

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with city street standards and the standards contained in the transportation plan. At the discretion of the city, these improvements may be deferred through use of a deferred improvement agreement or other form of security.

10. Traffic Study Improvements. If a traffic study is required, improvements identified in the traffic study shall be implemented as required by the director. [Ord. 2763 § 1 (Exh. A § 7), 9-16-13; Ord. 2747 § 1 (Exh. A § 5), 9-6-11; Ord. 2451, 12-2-96. Code 2001 § 151.194.]

#### **15.220.060 Additional requirements for multifamily residential projects.**

The purpose of this section is to ensure that residential projects containing three or more units meet minimum standards for good design, provide a healthy and attractive environment for those who live there, and are compatible with surrounding development. As part of the site design review process, an applicant for a new multifamily residential project must demonstrate that some of the following site and building design elements, each of which has a point value, have been incorporated into the design of the project. At least 14 points are required for attached single-family projects of any size and smaller multifamily projects with six or fewer units and at least 20 points are required for multifamily projects with seven or more units. For more information and illustrations of each element, refer to the Newberg Residential Development Design Guidelines (July 1997).

##### **A. Site Design Elements.**

1. Consolidate green space to increase visual impact and functional utility. This applies to larger projects which collectively have a significant amount of open space areas which can be consolidated into children's play areas, gardens, and/or dog-walking areas (three points).
2. Preserve existing natural features, including topography, water features, and/or native vegetation (three points).
3. Use the front setback to build a street edge by orienting building(s) toward the street with a relatively shallow front yard (12 to 15 feet for two-story buildings) to create a more "pedestrian-friendly" environment (three points).
4. Place parking lots to the sides and/or back of projects so that front yard areas can be used for landscaping and other "pedestrian-friendly" amenities (three points).
5. Create "outdoor" rooms in larger projects by grouping buildings to create well-defined outdoor spaces (two points).
6. Provide good-quality landscaping. Provide coordinated site landscaping sufficient to give the site its own distinctive character, including the preservation of existing landscaping and use of native species (two points).
7. Landscape at the edges of parking lots to minimize visual impacts upon the street and surrounding properties (two points).
8. Use street trees and vegetative screens at the front property line to soften visual impacts from the street and provide shade (one point).
9. Use site furnishings to enhance open space. Provide communal amenities such as benches, playground equipment, and fountains to enhance the outdoor environment (one point).
10. Keep fences neighborly by keeping them low, placing them back from the sidewalk, and using compatible building materials (one point).
11. Use entry accents such as distinctive building or paving materials to mark major entries to multifamily buildings or to individual units (one point).
12. Use appropriate outdoor lighting which enhances the nighttime safety and security of pedestrians without causing glare in nearby buildings (one point).

##### **B. Building Design Elements.**

1. Orient buildings toward the street. For attached single-family and smaller multifamily projects, this means orienting individual entries and porches to the street. In larger projects with internal circulation and grounds, this means that at least 10 percent of the units should have main entries which face the street rather than be oriented toward the interior (three points).

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2. Respect the scale and patterns of nearby buildings by reflecting the architectural styles, building details, materials, and scale of existing buildings (three points).
  3. Break up large buildings into bays by varying planes at least every 50 feet (three points).
  4. Provide variation in repeated units in both single-family attached and large multifamily projects so that these projects have recognizable identities. Elements such as color; porches, balconies, and windows; railings; and building materials and form, either alone or in combination, can be used to create this variety (three points).
  5. Building Materials. Use some or all of the following materials in new buildings: wood or wood-like siding applied horizontally or vertically as board and batten; shingles, as roofing, or on upper portions of exterior walls and gable ends; brick at the base of walls and chimneys; wood or wood-like sash windows; and wood or wood-like trim (one point for each material described above).
  6. Incorporate architectural elements of one of the city's historical styles (Queen Anne, Dutch colonial revival, colonial revival, or bungalow style) into the design to reinforce the city's cultural identity. Typical design elements which should be considered include, but are not limited to, "crippled hip" roofs, Palladian-style windows, roof eave brackets, dormer windows, and decorative trim boards (two points).
  7. Keep car shelters secondary to the building by placing them to the side or back of units and/or using architectural designs, materials, and landscaping to buffer visual impacts from the street (two points).
  8. Provide a front porch at every main entry as this is both compatible with the city's historic building pattern and helps to create an attractive, "pedestrian-friendly" streetscape (two points).
  9. Use sloped roofs at a pitch of 3:12 or steeper. Gable and hip roof forms are preferable (two points).
- [Ord. 2763 § 1 (Exh. A § 8), 9-16-13; Ord. 2505, 2-1-99. Code 2001 § 151.195.]

#### **15.220.070 Additional requirements for development in the C-2 zoning district.**



The purpose of this section is to ensure that development in the C-2 zoning district is designed to promote pedestrian and bicycle uses and improve aesthetics and compatibility. An applicant for a new development or redevelopment within the C-2 zoning district, which is subject to the site design review process, must demonstrate that the following site and building design elements have been incorporated into the design of the project. Exceptions to these additional development requirements may be granted if the requirements would result in construction that is out of character with surrounding development. Applicants for redevelopment of a designated landmark will not be subject to these additional requirements, except for requirements regarding parking and service drives.

- A. Building Entrances. Each building on a lot shall have a primary pedestrian entrance oriented to the primary street. **"Oriented to a street"** means that the building entrance faces the street or is connected to the street by a direct and convenient pathway not exceeding 60 feet in length. **"Primary street"** means the street which has the highest estimated volume of pedestrian traffic. This requirement does not apply to buildings that are located behind other buildings on the lot such that 50 percent or more of their building frontage is blocked by the front building, as measured by sight lines that are perpendicular to the street right-of-way. Such rear buildings shall have a primary entrance oriented to an internal sidewalk or pedestrian pathway system which is internally connected and provides a connection to the primary street.
- B. Parking and Service Drives. No off-street parking or service drives shall be placed within the required front yard setback. No off-street parking shall be placed between the front property line of the primary street, as defined in subsection (A) of this section, and the building. This requirement does not apply to buildings that are located behind other buildings on the lot such that 50 percent or more of their building frontage is blocked by the front building, as measured by sight lines that are perpendicular to the street right-of-way.
- C. Exceptions. The review body may approve exceptions to the above, provided there are no reasonable alternatives that would allow access to or parking on the lot.
- D. Building Mass. Where building elevations are oriented to the street in conformance with subsection (A) of this section, architectural features such as windows, pedestrian entrances, building offsets, projections,

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detailing, change in materials or similar features, shall be used to break up and articulate large building surfaces and volumes.

E. Corner Lots. Buildings on corner lots shall have their primary entrance oriented to the street corner, or within 40 feet of the street corner (i.e., as measured from the lot corner). In this case, the street corner shall provide an extra-wide sidewalk or plaza area with landscaping, seating or other pedestrian amenities.

The building corner shall provide architectural detailing or beveling to add visual interest to the corner.

F. Pedestrian-Scale Building Entrances. Recessed entries, canopies, and/or similar features shall be used at the entries to buildings in order to create a pedestrian scale.

G. Windows.

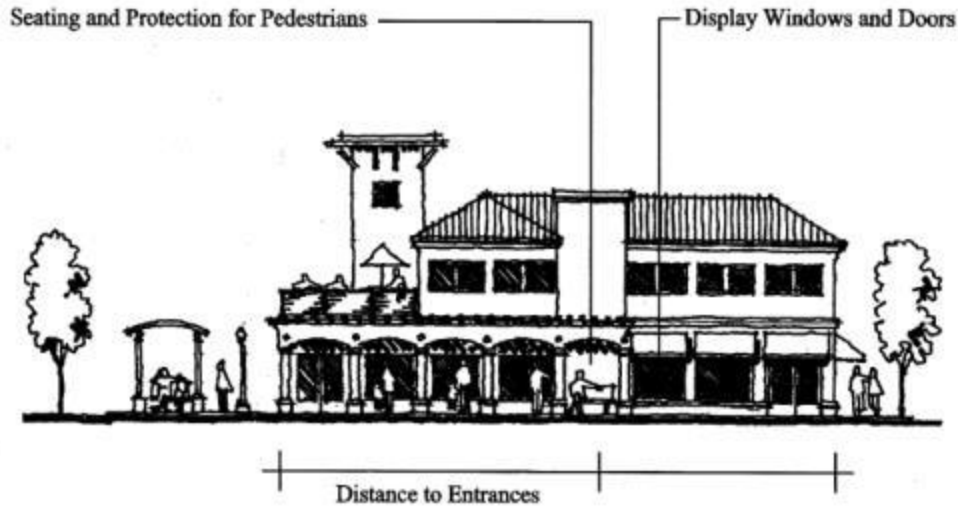
1. On commercial building facades facing a public street, windows shall comprise a minimum of 40 percent of the ground floor facade. For large-scale buildings and developments meeting the standards under subsection (H) of this section, windows shall comprise a minimum of 20 percent of the ground floor facade.

2. For large-scale buildings and developments meeting the standards under subsection (H) of this section, 50 percent of all required window area shall allow view into an active space. An “**active space**” is defined as any area within a building that is used for shopping, dining, office space, and so forth. Merchandise display windows with displays that change at least semi-annually shall be considered an active space. Examples of areas that are considered nonactive spaces are storage and mechanical equipment areas, and windows that are obscured by shelving or material affixed to the window.

H. Design of Large-Scale Buildings and Developments. All buildings on a development site shall conform to the design standards included under this subsection where the total square footage of one commercial building exceeds 30,000 square feet of total ground floor area or all commercial buildings exceed 50,000 square feet of total ground floor area. Deviations from these standards may be approved, where appropriate, through the conditional use permit process.

1. Facade Articulation. Incorporate changes in building direction (i.e., articulation), and divide large masses into varying heights and sizes. Such changes may include building offsets; projections; changes in elevation or horizontal direction; sheltering roofs; terraces; a distinct pattern of divisions in surface materials; and use of windows, screening trees; small-scale lighting (e.g., wall-mounted lighting); and similar features. At least five of the following elements shall be included along each 100 feet of building frontage facing a street:

- a. A building offset or projection of at least six feet depth and width.
- b. An awning or roof sheltering a pedestrian walkway or seating area.
- c. A building facade shall be comprised of at least two building materials, with the lesser comprising not less than 10 percent of the total facade.
- d. Contrasting brick, stone, or natural wood trim.
- e. Pitched roofs or gable-end roofs.
- f. Curved arches or roof line features.
- g. A tower, spire, or cupola.
- h. A cornice.
- i. Second story windows that comprise a minimum of 10 percent of the second floor facade.



[Note: the example shown here is meant to illustrate these building design elements, and should not be interpreted as a required architectural style.]

2. Pedestrian Entrance. Every building elevation facing a street with a horizontal dimension of more than 100 feet, as measured from end-wall to end-wall, shall have a building entrance no more than 100 feet from another entrance or end-wall; except that building elevations that are unable to provide an entrance due to the internal function of the building space (e.g., mechanical equipment, areas where the public or employees are not received, etc.) may not be required to meet this standard. Pathways shall connect all entrances to the street right-of-way.

3. Building Facades Not Fronting a Street. For all ground floor facades that do not face a public street, windows shall comprise a minimum of 20 percent of the ground floor facade or a landscape strip shall be provided adjacent to the building. The landscape strip shall be a minimum of five feet in width and include a combination of trees, shrubs, and groundcover or grass. Plant material shall be selected from at least two of the different plant material groups (example: trees and shrubs, or lawn and shrubs, or lawn and trees and shrubs). The type of tree selected shall have a crown of less than 15 feet at maturity. Exceptions to this standard include building facades that abut outdoor storage areas, loading docks, and mechanical equipment areas.

4. Building Orientation. All buildings shall be oriented to a primary street as defined in subsection (A) of this section or oriented to a plaza or open space within the development site that connects to the primary street. **“Oriented to a plaza or open space”** means that the building entrance faces the plaza, open space, shared parking area or is connected to the plaza by a direct and convenient pathway not exceeding 60 feet in length.

5. On-Site Landscaping and Screening.

a. A continuous landscape strip, with a five-foot minimum width, shall be located perpendicular to groups of two or more parking stalls. Within the landscape strip, at a minimum, one deciduous shade tree per seven parking spaces shall be planted to create a partial tree canopy over and around the parking area. The type of tree shall be chosen from the City of Newberg preferred street tree list and have a minimum crown spread of 25 feet. This standard shall apply unless otherwise approved by the director based on the following alternative standards:

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- i. No more than seven parking stalls shall be grouped together without a landscape island. The landscape island shall have a width and depth no less than five feet and contain no less than one deciduous shade tree; or
    - ii. Provision of tree planting landscape islands, each of which is at least 16 square feet in size, and spaced no more than 50 feet apart on average, with a maximum of 75 feet, within areas proposed for grouped parking. For every seven planting landscape islands, one shall be no less than 500 square feet in size.
  - b. At a minimum 50 percent of the parking area shall drain to a stormwater mitigation area. The mitigation area shall be designed using best management stormwater practices including, but not limited to, bioswales, rain gardens, or similar design intended to reduce stormwater flow and improve stormwater quality.
  - c. A 20-foot-wide landscaped buffer shall be provided between the development and any adjoining residential district. The buffer shall include a continuous six-foot-high sight-obscuring fence or wall, a continuous hedge and/or berm designed to achieve a height of six feet upon maturity, a row of trees not more than 35 feet on-center, and shrubs or living groundcover.
  - d. Outdoor storage areas, loading docks, and mechanical equipment areas shall be fenced with 75 percent opaque site-obscuring fencing or screened with landscaping between the area and public streets.
  - e. One square foot of interior open space or plaza space shall be required for every five square feet of gross floor area. The following features shall be included in the open space or plaza area:
    - i. One linear foot of seating space shall be required for every 30 square feet of open space or plaza space.
    - ii. One tree shall be provided for every 800 square feet of plaza space or open space.
    - iii. Pedestrian-scale lighting according to subsection (H)(7) of this section.
6. Vehicle and Pedestrian Connectivity.
- a. Public streets may be required to be dedicated where needed to improve internal circulation, to connect to neighboring properties or streets, to break up large blocks, or to reduce travel around a site.
  - b. At a minimum, 95 percent of the parking spaces shall be located within 75 feet of a private walkway or public sidewalk.
7. Pedestrian-Scale Lighting. Pedestrian-scale lighting shall be located along all internal walkways and provide a minimum illumination of one foot-candle. Building entrances shall have a minimum illumination of five foot-candles. Lighting shall be fully shielded so that no light is emitted at an angle above the horizontal plane as illustrated by the lighting plan. The type of features that should be considered include, but are not limited to, street lamps, light fixtures attached to buildings, and light bollards. All pedestrian-scale light fixtures shall not exceed a maximum height of 15 feet as measured from grade to the fixture lamp. The lens material for all pedestrian-scale lighting shall be constructed of acrylic or similar shatter-resistant material as determined by the director. Glass lenses shall not be used for any pedestrian-scale lighting.
8. Parking. The number of parking stalls shall not exceed 125 percent of the minimum number of stalls required. Parking stalls constructed of grass blocks, grasscrete, pervious asphalt or concrete, or similar pervious material shall not be counted in this limit.
9. Existing Development. Any existing legal conforming site, through future development, exceeding the square footage threshold contained in this subsection (H) shall follow the standards contained in Chapter 15.205 NMC, Nonconforming Uses and Buildings.
10. Vacancy Agreement. All large-scale retail development sites as defined in this subsection (H) shall have an abandoned building surety agreement filed with the city. The purpose of the agreement is to ensure a continued attractive business environment in case a building goes vacant. The agreement shall provide measures to maintain the on-site landscaping and exterior of the buildings to their prevacancy

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condition, and to assist in finding a future tenant. “**Vacancy**” is defined as a period exceeding one year without legal occupancy. The terms of the agreement shall include:

- a. A surety bond equal to one percent of the total valuation of the buildings on site.
- b. If the owner fails to maintain the physical exterior of the property or any building on site, the bond may be used for items including, but not limited to: landscape maintenance, exterior building repairs, parking lot paving, amenities in the public right-of-way (lighting, benches, landscaping, etc.). If the cost of maintenance exceeds the amount of the bond, the city will bill the owner. Any unpaid amounts will become a lien on the property.
- c. If the owner fails to legally occupy the site, the bond may be used as an incentive for prospective tenants including, but not limited to: payment of permit fees, application fees, system development charges, funding for on-site landscaping, and facade improvements.
- d. If the surety bond is expended in any amount, the owner shall provide a new surety bond prior to occupancy by a new tenant. The amount of the bond shall be equal to one percent of the value of the building at the time of occupancy.
- e. If at any time prior to one-year vacancy, the director finds the property is in need of maintenance, the director shall notify the owner in writing of the need to maintain the property and the intent to use the bond. Unless the owner provides the needed maintenance or objects within 30 days of the notice, the surety may be used to maintain the property. If the owner objects, the city council will hear the matter and determine whether the surety will be used.

11. Environmental Impact. All new large-scale retail development as defined in subsection (H) of this section shall be LEED certified as defined by the U.S. Green Building Council. The terms of approval are as follows:

- a. The applicant shall demonstrate to the director the extent to which the applicant has complied with the commitment to earn a LEED new construction certification rating for a completed project. Demonstration of LEED certification shall be completed prior to the issuance of final certificate of occupancy for the new structure by submitting a report analyzing the extent credits earned toward such rating from the U.S. Green Building Council or another independent entity approved by the director.
- b. With specific regard to the LEED stormwater design category, all buildings shall obtain a total of at least two points in this category.
- c. With specific regard to the LEED water efficiency category, all buildings shall obtain a total of at least one point in this category.
- d. In this section the term “**leadership in energy and environmental design (LEED)**” means a green building rating system promulgated by the United States Green Building Council (USGBC) that provides specific principles and practices, some mandatory but the majority discretionary, that may be applied during the design, construction, and operation phases, which enable the building to be awarded points from reaching present standards of environmental efficiency so that it may achieve LEED certification from the USGBC as a “green” building, as such rating system exists on January 1, 2009.
- e. The USGBC intends to release a revised version of the LEED green building rating system every three years, and the director shall refer to the most current version of the LEED when reviewing a new building construction permit project or renovation.
- f. The LEED existing building rating system shall be used during retrofit projects of existing structures. [Ord. 2711 § 1, 3-16-09; Ord. 2696 § 1 (Exh. A(1)), 6-2-08; Ord. 2561, 4-1-02. Code 2001 § 151.196.]

- Newberg Municipal Code – Title 15 Development Code:  
<https://www.codepublishing.com/OR/Newberg/#!/Newberg15/Newberg15.html>
- Fee schedule: <https://www.newbergoregon.gov/finance/page/master-fee-schedule>
- Type 3 application link: <https://www.newbergoregon.gov/planning/page/type-iii-application-quasi-judicial-review>
- Contact: Keith Leonard [keith.leonard@newbergoregon.gov](mailto:keith.leonard@newbergoregon.gov)

**General Comment:** The planning pre-application notes provided are preliminary based on the information provided by the applicant and may not cover all of the development issues or requirements for the project. When a complete application is received and a full review is conducted, it may be determined that additional requirements to meet the Municipal Code or the Public Works Design and Construction Standards exist.

There are a number of agreements requiring such structures as sound walls in certain areas along the perimeter of the property. Please make sure to do your due diligence to determine where the sound wall(s) must go.